IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

WP(C).No. 15704 of 2007(T)

LAR.197/2000 of ADDL.SUB COURT,KOLLAM

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PETITIONER:

SATHI BAI AMMA, KIZHAKKAZHIKATHU VEEDU,
MEENATHU CHERI, SAKTHIKULANGARA VILLAGE,
KOLLAM.

BY ADV. SRI.B.SURESH KUMAR

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
THE DISTRICT COLLECTOR, KOLLAM.

BY GOVT. PLEADER SRI.L.G.SURESH BABU.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

W.P.(C) No. 15704 OF 2007

Dated this the 8th June, 2007.

J U D G M E N T

Petitioner's property was acquired for a public purpose. Dissatisfied with the quantum of compensation, she filed a petition claiming enhancement. The matter was referred to Addl. Sub Court, Kollam, as L.A.R.No.197/2000. L.A.R. came up for evidence and hearing on 23.12.2005. On that day, the petitioner and her counsel were absent. The learned Sub Judge answered the reference confirming the award passed by the Land Acquisition Officer. Petitioner filed a petition under Order 47 Rule 1 of Civil Procedure Code for review of that order. That petition was also dismissed on 4.1.2006. Thereafter, petitioner has filed this writ petition challenging the judgment passed by the Sub Court, as well as the order passed in the review petition.

2. Heard both sides. Though in the judgment, the learned Sub Judge had stated that he had gone through the entire records, and also held that the compensation awarded is very reasonable, he had not stated any reason. A reading of the judgment

clearly shows that the L.A.R. was dismissed for default. The statement that the Sub Judge was satisfied with the award is not a ground to dismiss the reference. In an unreported decision, **Gourikutty Amma v. State of Kerala** (W.P.(C) No.30331/2006), a learned Single Judge of this Court found that the Court has a duty to determine the amount of compensation payable for land acquisition. So, the impugned orders are liable to be set aside.

3. In this case, there is negligence and laches on the part of the claimant. The judgment shows that the case was pending before the Sub Court, Kollam, from 29.8.2000 onwards, and though several chances were given, claimant did not adduce evidence. Hence, I am of the view that it is not just and proper to saddle the State with a liability to pay interest from the date on which the L.A.R. was dismissed till the date on which the same is being restored by the Sub Court. So, the writ petition can be allowed with such a condition.

4. In the result, the writ petition is allowed. The judgment passed by the Addl. Sub Court, Kollam, in L.A.R.No. 197/2000, dated 23.12.2005, is hereby set aside. The learned Sub Judge is directed to take L.A.R. back to its file and dispose of the

same on merits, after giving a reasonable opportunity to the petitioner to adduce evidence. But I make it clear that the petitioner will not be entitled to get interest on the amount of compensation from 23.12.2005 till date on which the learned Sub Judge restore the L.A.R. back to file.

K.PADMANABHAN NAIR,
JUDGE

nj.